

REMARKS

Reconsideration of the rejection is again respectfully requested.

It appears the examiner's position is that if there is a prior art disclosure teaching one of skill to take aspirin for a particular malady, then it is obvious to take the additional positive steps of purchasing two different brands of aspirin and alternate administrations of the two brands. But this is clearly not true. A skilled worker (or even an average consumer) would not perform the "alternate" administration, unless there were a reason to do so, i.e., motivation to do so. The normal, expected approach would be to purchase a given brand of aspirin and take that brand. Whereas it arguably might be obvious that one could buy different brands, there would be no reason under the assumed circumstances to indicate that one should do so. Rather, from common experience, the opposite is true. It would not be obvious to alternate brands.

In the case at hand, if the prior art reference suggests administering one of the extract types recited in the current claims, there still is no suggestion in the prior art that one should do anything other than the usual, i.e., continue to take such a single dose type. Nothing suggests that one should prepare two different types of extract and administer the two types, rather than doing the normal expected procedure of preparing one extract and administering it.

Once again, there is no motivation in the prior art to carry out any of the claimed two-extract type methods or prepare corresponding two-type extract-containing kits.

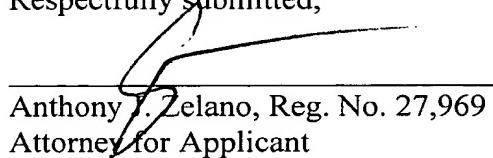
Furthermore, the examiner's attention is directed to examples D and E of the application. Because there is no motivation to change the prior art in the way necessary to arrive at any of the claimed subject matter, these data are not necessary at all for patentability. However, they are indicative of the value of the invention.

Examples D and E represent the two-extract type aspect of the invention. The former illustrates an alternate treatment using different extracts of calf liver homogenate. The latter illustrates an alternate treatment with two different animal type extracts, goat and calf. Example D reports that variation of the extract causes the tendency of tumor cells to proliferate to be diminished. (Page 8, lines 4-5 from the bottom). Example E reports that the variation of the extracts produces results showing a marked reduction in cell growth in comparison to prior examples (page 9, lines 4-8). *In re Soni*, 54 F.3d 746, 34 USPQ2d 1684 (Fed. Cir. 1995).

There being nothing in the prior art motivating a skilled worker to administer the two types of extracts recited in the claims, the obviousness rejection must be withdrawn.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


Anthony J. Zelano, Reg. No. 27,969
Attorney for Applicant

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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